

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

**IN RE: Aqueous Film Forming Foams  
(AFFF) Products Liability Litigation**

) **MDL No. 2873**  
) **Master Docket No.: 2:18-mn-2873-RMG**  
)  
) **This document relates to:**  
) ***Whitaker, et al. v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-03452-RMG**  
) ***Carter, et al. v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-03453-RMG**  
) ***Butler, et al. v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-03454-RMG**  
) ***Cowart, et al. v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-03455-RMG**  
) ***Kelley, et al v. 3M Co., Inc. et al.,***  
) **No. 2:24-cv-03776-RMG**  
) ***Clopton v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-03754-RMG**  
) ***Ashford, et al v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-03774-RMG**  
) ***Antonio, et al. v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-04300-RMG**  
) ***Lee, et al. v. 3M Co., Inc., et al.,***  
) **No. 2:24-cv-04301-RMG**

**PLAINTIFFS' NOTICE OF PENDING MOTIONS TO REMAND**

These cases do not involve contamination from aqueous film-forming foam (“AFFF”) and the Plaintiffs in these cases do not claim they were injured by AFFF contamination. In fact, the plaintiffs in these cases have explicitly denied they are seeking any “damages from or associated with AFFF manufacture, use, and/or disposal.”<sup>1</sup> Instead, these Plaintiffs allege that the manufacturing facilities run by the Defendants (3M Company, Inc., Daiken America, Inc., and Toray Fluorofibers (America), Inc.) contaminated local water supplies with non-AFFF PFAS chemicals. Despite Plaintiffs’ unambiguous statements that they are not seeking damages

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<sup>1</sup> Plaintiffs all filed substantively identical complaints.

associated with the manufacture, use, or disposal of AFFF, 3M removed these cases from state court pursuant to the Federal Officer Removal Statute, 28 U.S.C. § 1442(a)(1) (“Section 1442(a)(1)”). 3M says that it can take advantage of this removal statute because it would raise the federal contractor defense in response to claims—that Plaintiffs expressly disavowed—for AFFF-related injuries. This Court has already rejected this removal ploy. *See South Carolina v. 3M Co.*, No. 2:23-cv-05979, D.E. 13 at \*4-\*5 (D.S.C. Feb. 29, 2024) (Gergel, J.) (holding that 3M cannot cite its production of AFFF as grounds for removal under Section 1442(a)(1) when the plaintiff expressly disclaimed any injury from AFFF).

Below is a chart of the case numbers and docket entries for the pending Motions to Remand.

Case Number	Docket Entry
<i>Whitaker, et al. v. 3M Co., Inc., et al.</i> , No. 2:24-cv-03452-RMG	D.E. 15
<i>Carter, et al. v. 3M Co., Inc., et al.</i> , No. 2:24-cv-03453-RMG	D.E. 14
<i>Butler, et al. v. 3M Co., Inc., et al.</i> , No. 2:24-cv-03454-RMG	D.E. 15
<i>Cowart, et al. v. 3M Co., Inc., et al.</i> , No. 2:24-cv-03455-RMG	D.E. 19
<i>Kelley v. 3M Co., Inc. et al.</i> , No. 2:24-cv-03776-RMG	D.E. 11
<i>Clopton v. 3M Co., Inc., et al.</i> , No. 2:24-cv-03754-RMG	D.E. 3
<i>Ashford v. 3M Co., Inc., et al.</i> , No. 2:24-cv-03774-RMG	D.E. 15
<i>Antonio, et al. v. 3M Co., Inc., et al.</i> , No. 2:24-cv-04300-RMG	D.E. 13
<i>Lee, et al. v. 3M Co., Inc., et al.</i> , No. 2:24-cv-04301-RMG	D.E. 14

Plaintiffs filed substantively identical motions to remand in the Northern District of Alabama in each of the above cases. Those motions remain pending. Plaintiffs provide notice of these pending motions pursuant to CMO 2 and request that this Court grant their motions to remand.<sup>2</sup>

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<sup>2</sup> Pursuant to CMO 2, Plaintiffs’ counsel conferred with Co-Lead Counsel regarding the filing of this notice, and Co-Lead Counsel consents to the filing of this notice. 3M has previously filed briefs in opposition to Plaintiffs’ Motions to Remand.

Respectfully submitted this 27<sup>th</sup> day of August, 2024.

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**CERTIFICATE OF SERVICE**

On August 27, 2024, the foregoing was electronically filed with the Clerk of the Court through the CM/ECF system, which will provide service to all counsel of record.

/s/ Jason W. Earley  
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